IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 618 of 2006
Date of Decision: 23.2.2007

Banwari Lal and another ...Appellants

Versus

Subeg Singh and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri N.S. Shekhawat, Advocate, for the appellants.

HEMANT GUPTA, J.

The defendants are in second appeal aggrieved against the judgment and decree passed by the learned first Appellate Court, whereby suit for declaration challenging the sale deed dated 16.6.1972 and the decrees dated 15.6.1983 and 10.1.1985 being ineffective and not binding on the rights of the plaintiffs, has been decreed.

It has been found by the learned first Appellate Court that one Ranpat was the owner of the land measuring 552 kanals 5 marlas of land. He had two sons, Mohinder and Ram Sarup. The plaintiffs are the purchasers from Ram Swarup, whereas the defendants are deriving their rights from Mohinder. Initially, the mutation of the estate of Ranpat was sanctioned in equal shares in favour of Mohinder and Ram Sarup, but on the basis of Will, which has been accepted by Mohinder and Ram Swarup, the share of Mohinder is to the extent of 1/3rd i.e. 184 kanals whereas he has sold 233 kanals and 8 marlas of land. Since Mohinder has sold the land in excess of his share, the suit was decreed and it was found that the

defendant-appellants will not derive any title in the suit land as their vendor was not owner of such land in excess of 184 kanals.

Learned counsel for the appellants has sought to dispute such finding by re-appreciation of evidence. However, it could not be disputed that Mohinder had only 1/3rd share in the total land and that the land sold to the appellants is in excess to his share.

In view thereof, I do not find any patent illegality or irregularity in the findings recorded by the learned first Appellate Court, which may give rise to any substantial question of law in the present appeal.

Hence, the present appeal is dismissed.

23-02-2007 (HEMANT GUPTA)
ds JUDGE